

MUSSEY'S STORY

Will continue for about twelve weeks longer. It grows in interest. Are you following it Sunday?

VOL. LXXVI, NO. 130.

WEATHER TODAY—Rain or snow.

SALT LAKE CITY, UTAH, FRIDAY MORNING, FEBRUARY 21, 1908.

PRUDENCE SAYS

Every good business man should be preparing to take advantage of the business activity soon to follow.

10 PAGES—FIVE CENTS.

HARRIMAN IS VICTOR IN HIS FIGHT AGAINST FISH

Court Dissolves Injunction Which Restrained Railroad King From Voting Big Block of Shares in the Illinois Central Road.

CAN BE NO APPEAL FROM DECISION; CASE MUST NOW REST ON ITS MERITS

Court Holds Fish Failed to Prove That Harriman's Control of the Road Was Contrary to Public Policy.

CHICAGO, Feb. 20.—Judge Ball of the superior court today dissolved the injunction secured last October by Stuyvesant Fish by virtue of which the Harriman interests were restrained from voting 281,231 shares of the capital stock of the Illinois Central railroad at the annual meeting of the company. The theory on which counsel for Mr. Fish based their arguments in support of the injunction—that it was contrary to the laws and public policy of the State of Illinois to allow foreign corporations to own and vote the stock of domestic corporations—was denied by the court.

Under the ruling of the court the previously enjoined stock, which is held by the Union Pacific railroad and by the Railroad Securities company of New Jersey, can be voted at the annual meeting of the Illinois Central, which is to be held in this city on March 2.

No Appeal From Decision.

There is no appeal from the decision handed down today by Judge Ball, but it is considered probable that Mr. Fish will take further legal steps to regain possession of the Illinois Central. Judge Ball, in his opinion, said that the case will now be tried on its merits, but declined to say how quickly new proceedings will be instituted.

None of the principals in the case was in court, both Mr. Fish and Mr. Harriman being in New York.

All of the Harriman interests were present, and filled the courtroom to overflowing. President Harlan of the Illinois Central came in while the decision was being read, and heard the latter portion of it. When the conclusion had been reached he said:

Harriman Nearly Overcome.

"My head is too full of that decision to allow me to say anything, but to say that I am highly pleased, and more than highly pleased, is putting it mildly."

Judge Ball, who is of somewhat frail physique, turned over to his son the task of reading the decision, which contained almost 1,000 words.

As soon as it was concluded there was a veritable stampede in the courtroom, brokers, lawyers and messengers making a rush for the doors in order to announce the result. They ran into various rooms seeking for telephones, and many tore headlong for the elevators, while others fled wildly down the stairway. Such excitement and confusion has not been witnessed in the county courthouse for many years.

Fish Failed to Make Proof.

The court declared that Mr. Fish had not been able to prove any of his contentions that the domination of the Illinois Central by Mr. Harriman would be to the detriment of the public, and that the interests of stockholders would be injured thereby. The court held that the Illinois Central, the Union Pacific and the Securities company are permitted to vote at the coming election, the hold of Mr. Harriman upon and his domination over the Illinois Central will be reduced to a servient position and will be given the lean end of the carrying trade. But they fail to allege and prove facts supporting these allegations.

Fish Must Take Medicine.

"While Mr. Fish may rightfully desire to remain a director of the Illinois Central and to that may use every lawful means in the power of himself and his friends, he has no right to that office unless he is legally entitled thereto. Hence his defeat, if it comes from the lack of valid votes, is no legal injury to the civil or property rights of Fish or those of his fellow-complainants."

he must show that an application to them would have been useless.

Allegations of Complaint.

"The bill as amended alleged that complainants made no application to the company to bring this suit first, because they believed they have the individual right as stockholders to bring this action; and second, that it would have been idle to have made such application because eight of the thirty-two directors of the Illinois Central believe that the Union Pacific and the Railroad Securities company have the right to hold and to vote the stock severely injured by them; because three of these directors have participated in the unlawful acts complained of and five others would have been advised by Harriman not to allow the bringing of such a suit and would have followed such advice; and because of the personal hostility of eight of said directors to Fish they would not have permitted such a suit to be brought."

"The first reason given may be passed, as it is a legal conclusion, and the alleged facts stated as the basis for the second reason are vigorously denied in affidavits filed by said eight directors."

Status of Proof.

"The only thing averred and proved in this case as to the future actions of the defendants is that at the coming election the Union Pacific and the Railroad Securities company will vote the stock they own and control for the reelection of three of the present directors, each of whom has served the Illinois Central acceptably for many years, and for a fourth director, in place of Mr. Fish, a competent man, who is not in any way connected with the Union Pacific. All act prejudicial to the Illinois Central or to its stockholders is shown to have been the mere fact that the Union Pacific and the Railroad Securities company own and control the stock of the Illinois Central. The Union Pacific and the Securities company are permitted to vote at such meetings, but no facts are alleged or proved which even tend to bring about such results."

Charges Not Sustained.

"The bill, however, charges many things which may happen to the detriment of the Illinois Central and its stockholders if the Union Pacific and the Securities company be permitted to vote at such meetings, but no facts are alleged or proved which even tend to bring about such results."

Courts of equity act on facts alleged and proved, and not on fears, or supposed prophecies.

If it were not for the fact that the name of Harriman is a name to conjure with, those allegations would not be taken so seriously. There are many things stated in the bill as to the intention of the defendants which, if true, would be a detriment to the Illinois Central and its stockholders; but a diligent search of the record fails to show that such things exist in any concrete form."

Fish Must Take Medicine.

"While Mr. Fish may rightfully desire to remain a director of the Illinois Central and to that may use every lawful means in the power of himself and his friends, he has no right to that office unless he is legally entitled thereto. Hence his defeat, if it comes from the lack of valid votes, is no legal injury to the civil or property rights of Fish or those of his fellow-complainants."

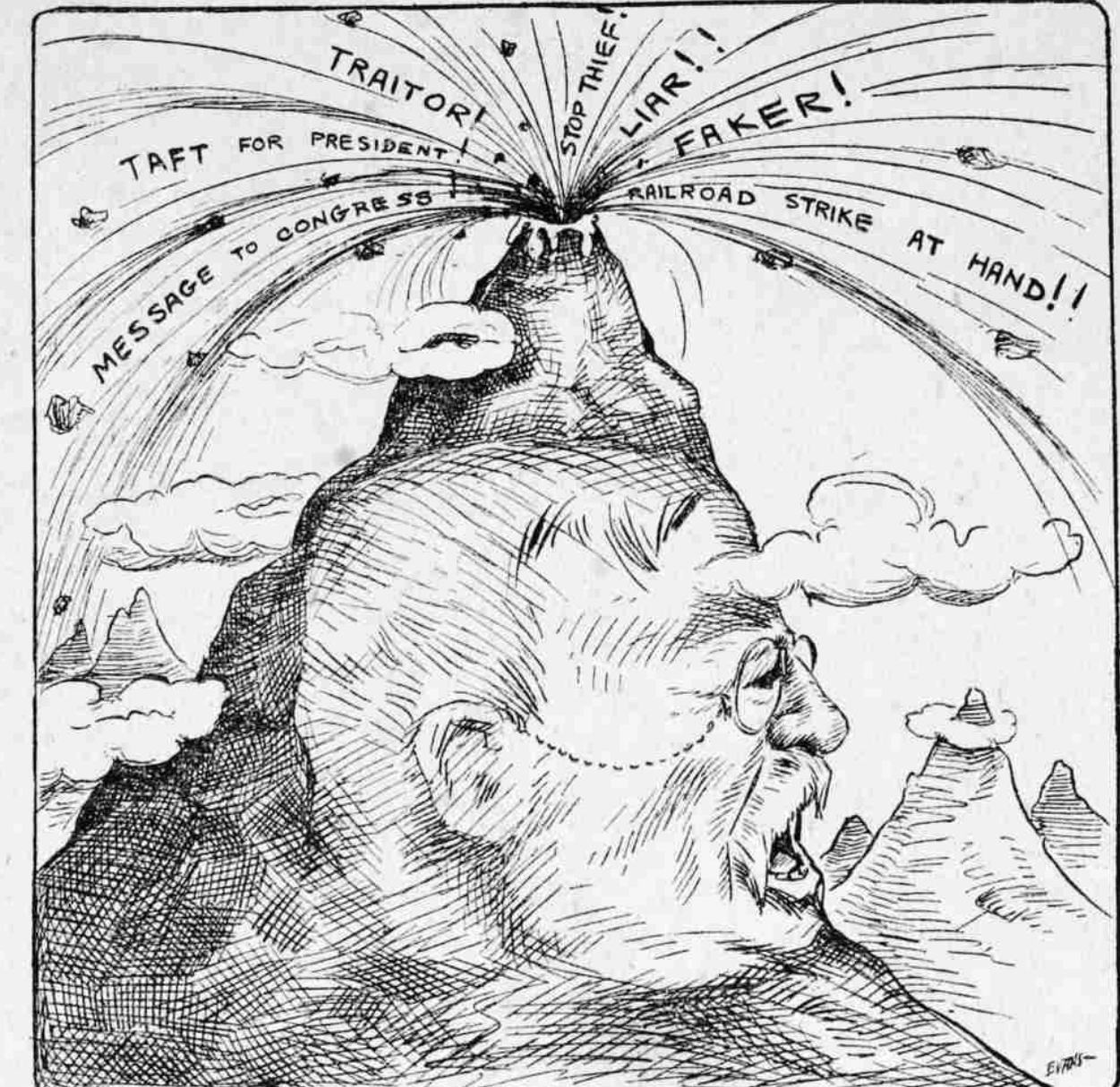
As private citizens, the complainants are not keepers of the public conscience, nor are they the conservators of the rights of the public.

To sustain this bill, it is not sufficient for them to show merely that the acts complained of are a public wrong; they must also show that by the doing of such act they will suffer a special injury to their civil or property rights. This election of directors at the coming meeting can work no legal wrong to the complainants and no special injury to any of them is proved which calls for the interposition of this court."

The court then asserted that the findings and opinion of the Interstate Commerce Commission are not binding on the court.

Continued on Page Two.

VESUVIUS STILL IN ERUPTION



SENATOR LATIMER IS SUMMONED BY DEATH

Failed to Rally From Operation for Appendicitis; Both Houses of Congress Adjourn.

WASHINGTON, Feb. 20.—Senator Asbury C. Latimer of South Carolina died at Providence hospital at 9:15 a. m. today of peritonitis. He had been at the hospital since Sunday last, when he underwent an operation for appendicitis. It was then discovered that the bowels had become twisted, and his condition was found to be such that surgeons held out little hope for his recovery. He rallied, however, and his progress was satisfactory until last evening, when he steadily became worse. The members of the Senator's family were with him when he died.

Congress Pays Tribute.

Chaplain Hall in his prayer opening the Senate referred fittingly to the death of Senator Latimer. After the adoption of appropriate resolutions and the appointment of a committee to take charge of the funeral, the Senate adjourned until tomorrow.

In the House, Mr. Finley of South Carolina offered resolutions of regret, which were unanimously adopted. The Speaker announced a committee to attend the funeral, and as a further mark of respect the House, at 1:12 p. m., adjourned.

The immigration commission, of which Senator Latimer was a member, also adopted resolutions of regret.

GET MARRIAGE LICENSE AND GROOM IS MISSING

Special to The Tribune.

PROVO, Feb. 20.—There is a slip between the cup and the lip. At least there has been a slip in the marriage of Mrs. Hazel Corbett to Alex. Caldwell. This couple, having from Thistle, procured a marriage license in Provo February 1, and up to the present time no marriage has been solemnized and the would-be groom has gone to parts unknown, and Mrs. Corbett is waiting for his departure. Mrs. Corbett called on the county officers with the object of swearing to a complaint charging a statutory offense. The Sheriff is ready to go after Caldwell, but Mrs. Corbett signs a complaint.

There has been no complaint made nor warrant issued against Robert Corbett over and at the present time there is no certainty as to whether there will or not.

The Sheriff and County Attorney insist that if Mrs. M. B. Corbett swears to a complaint she must agree to prosecute to a finish and not compromise for money. The expense of the divorce, which Mrs. Corbett has agreed to pay, has not been paid and the indications now are that it will not be paid. If not the lady says she will swear to the complaint Friday morning.

Judgement to quiet title to certain land in Utah county was entered today in the District court in the case of C. S. Rasmussen vs. Sarah L. Turner et al.

TEMPORARY RECEIVERS FOR MUTUAL RESERVE

NEW YORK, Feb. 20.—Temporary receivers for the Mutual Reserve Life Insurance company were appointed by Justice Pitlake in the New York State Supreme court today on the application of Attorney General Jackson.

The company is now in the hands of receivers appointed by the United States court on application made by a committee of policyholders. The receivers appointed by Judge Pitlake are Joseph J. O'Donnell and Joseph F. Day.

BOYS STEAL COAL FROM D. & R. G. CARS AT LEHI

Special to The Tribune.

LEHI, Feb. 20.—Judge Noon, Probation Officer Roper and County Clerk Gee, officers of the juvenile court, came over from Provo yesterday and put a score of boys through a rigid examination concerning the disappearance of coal from the Rio Grande cars as they passed through Lehi. The boys confessed to helping themselves to black diamonds to the value of \$104.75, and a local officer, quoting an old song, says "not half has ever been told."

The real culprits in the case are, the trainmen, who, according to the boys, would for a pile, cigar or 50 cents, permit the boys to unload a ton or half-ton of coal, which they knew was consigned to some dealer further along the line, the depredations being done while the trains were on the switches or sidings waiting for orders or for another train to pass. The boys as a rule sold the coal to people who were not "boys," and it is probable that these will have to give an accounting later. A detective representing the railway company was present, and said that the brakemen and engineers would also have to make good, and some of them he made to walk the plank. Similar conditions are also known to have existed in American Fork and other towns along the line.

FATALLY WOUNDS SELF BY STRANGE ACCIDENT

TRINIDAD, Colo., Feb. 20.—Frank Parkhurst of Chicago accidentally shot himself just after boarding a Colorado & Southern passenger train here today, inflicting a probably fatal wound. As he was walking through a car the hammer of a revolver in his breast pocket struck the end of a seat, firing the weapon. The bullet lodged in his lung. He soon afterward lost consciousness. Nothing is known here of the man.

KENTUCKY DEADLOCK OF WEEKS UNBROKEN

Special to The Tribune.

LOA, Feb. 20.—Today brought forth one of the fiercest snow and windstorms ever known in this county. The snow is lying at a height of one hundred feet and there are no prospects of it abating. The United States mail left here at its usual time and went about eight miles, when the storm got so fierce the driver could not see his team.

The roads were filled with snow at a depth of from three to ten feet, which made the roads impassable. The driver made his way back to Loa, arriving here at 2:30 p. m. Two men succeeded in crossing over the mountain yesterday with two wagons and had to abandon them about seven miles from Loa. Today it is reported that only the top of one wagon can be seen and the other is entirely out of sight, the snow having literally covered it up. A number of men with a band of horses will try tomorrow to break open the roads, so the mail can get through to Richmond.

GUilty CASHIER MAKES PARTIAL RESTITUTION

NORFOLK, Va., Feb. 20.—Alexander B. Butt, cashier of the wrecked People's bank of Portsmouth, Va., today pleaded guilty upon three of twenty-two indictments against him, and after making restitution to the depositors to the extent of \$37,000 on the total shortage of \$252,000, was sentenced to three years in the penitentiary and to pay a fine of \$154.

Smoke Overcomes Girls.

PHILADELPHIA, Feb. 20.—Several hundred girls, employed in the large hotel, the Thompson Hotel & Sons, in the northeastern section of the city, were driven from their work today by a fire which destroyed the hotel. Twenty girls were overcome by smoke, but soon revived. The loss is \$150,000.

Madison, Ill., Bank Fails.

MADISON, Ill., Feb. 20.—The Trinity State bank closed its doors today. No reason has been given out by the officers of the bank for the closing, but it is currently rumored that the action resulted after an investigation of the accounts of a trusted employee. The bank's capital is \$25,000.

Veteran Journalist Dies.

CLEVELAND, O., Feb. 20.—George A. Robertson, one of the oldest and best-known newspaper men in Cleveland, died today, aged 85. He served as special home secretary for General Garfield while he was in Congress and also while Garfield was president of Hiram college.

SLUGGED, SHOT AND ROBBED BY BANDIT

Druggist of Colorado Springs Loses Wealth and Is Probably Fatally Wounded.

COLORADO SPRINGS, Colo., Feb. 20.—Otto Fehring, a druggist and wholesale liquor dealer of this city, was slugged, shot and robbed on a country road, three miles northeast of this city, last evening by an unknown man, who had induced the merchant to accompany him to the place on the pretext that an uncle had some fine wine which he wished to sell.

The robber secured a diamond stud and ring valued at \$1,000, a roll of bills and checks amounting to \$600 and a valuable gold watch with a diamond setting. After shooting Fehring, the man drove back toward Colorado Springs and the horse and phaeton were later found in the heart of the city. Fehring, after the departure of his assailant, walked half a mile to the electric light plant, from which place the police and Sheriff's office were notified.

FIERCE SNOWSTORMS PLAY HAVOC AT LOA

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LESLIE M. SHAW IS HEARD IN DENVER

DENVER, Colo., Feb. 20.—Leslie M. Shaw, former Secretary of the Treasury, now president of the Carnegie Trust company of New York, delivered the address on "The Finances of the Nation," recently given by him in Chicago and Kansas City, before a large and representative audience of business men, under the auspices of the Denver Chamber of Commerce tonight.

During the afternoon he met the State and city officials and many prominent citizens at a luncheon at the Denver Athletic club, and made short speeches on financial questions. The former Secretary, now president of the Carnegie Trust company of New York, delivered the address on "The Finances of the Nation," recently given by him in Chicago and Kansas City, before a large and representative audience of business men, under the auspices of the Denver Chamber of Commerce tonight.

Negro Sentenced to Death.

KANSAS CITY, Mo., Feb. 20.—Claude Brooks, a negro, who confessed to killing Sidney Herndon, a well-to-do butcher, in his apartment in this city, January 1, was today found guilty of murder in the first degree, and his punishment fixed at death. Herndon was murdered for his money. He was a member of a wealthy family, and his death was a great loss to the community.

Girl Suspected of Murder.

KANSAS CITY, Mo., Feb. 20.—Blanche M. Brown, a girl, was arrested today in connection with the death of four-year-old Ruth Miller of Kansas City, who died from the effects of eating poisoned candy, which had been sent by mail to her half-sister, Ella Van Meter, who is now in the city.

Prays for Unemployed.

WASHINGTON, Feb. 20.—In his invocation in the House today, Chaplain Cullen referred to the number of unemployed throughout the country, and prayed that they may be given an opportunity to subsist.

Presented to Emperor.

BERLIN, Feb. 20.—Mrs. and Miss Montgomery of Portland, Ore., were presented to Emperor William and the Empress at the court concert last evening. Mrs. Montgomery is a sister of the late William Van Meter, who was minister to Germany from 1889 to 1892.

COMPLETE PLANS FOR BANQUET TO DUBOIS

Complimentary Dinner to Distinguished Idahoan Will Be Select Affair.

Arrangements for the banquet to be given by the representative men of Salt Lake at the Cullen hotel Saturday night in honor of former Senator Fred T. Dubois of Idaho have been practically completed and assure an affair which from a social standpoint as well as on account of its political significance promises to eclipse anything of the sort ever given in Salt Lake. It is intended to make the affair especially select and the number of invitations has been restricted to 200. The most prominent men of Utah and Idaho will be present and will respond to numerous toasts. Former Governor George A. Black will be the toastmaster. Among the other speakers will be former Senator Frank Cannon, Mayor John S. Brantford, Thomas Weir, Thomas Lipman and David Dunbar.

The banquet hall of the Cullen will be decorated with American Beauty roses and carnations and the walls of the room and the table will be draped with the National colors. A large orchestra, the members of which will be selected from among the leading musicians of the city, will furnish music for the occasion.

Sensor Dubois, who will arrive in the city Friday night or Saturday morning, will be accompanied by a large party of friends from Idaho and especially from Boise.

The dinner, which will be wholly a stag affair, will begin promptly at 7 o'clock. The guests are not restricted to evening dress.

TAKES MURDER CASE FROM HANDS OF JURY

MARYSVILLE, Kan., Feb. 20.—Judge Kimble today instructed the jury in the case wherein George Tennyson was being tried for the murder of his father to find the defendant not guilty. The jury was then dismissed.

The action of the jury for the prosecution made vigorous protest against the action of the court. They asked to have the hearing proceed and insisted that the purported confession of George Tennyson, coupled with the other evidence, required the court to submit the case to the jury. The court replied to the request, stating, as a matter of law, that he could not allow the genuineness of the confession to be disputed or questioned in the case.

TELLS BURGLAR STORY TO EXPLAIN TRAGEDY

ALAMOSA, Colo., Feb. 20.—N. M. Lowther, a Denver & Rio Grande railroad timekeeper, was shot and mortally wounded today, when seeking a newspaper man and an official of the Mander block, by Linn Holbrook, son of District Judge C. C. Holbrook.

Lowther, who is holding his own, Theodore Noyes, oldest son of the veteran newspaper man and an official of the Pennsylvania railroad, reached the bedside of his father today.

CROSBY S. NOYES IS BATTLING FOR LIFE

PASADENA, Cal., Feb. 20.—The condition of Crosby S. Noyes, proprietor of the Washington Evening Star, who is seriously ill in this city, was today practically unchanged. His family is greatly encouraged over the fact that Mr. Noyes is holding his own.

Theodore Noyes, oldest son of the veteran newspaper man and an official of the Pennsylvania railroad, reached the bedside of his father today.

Park City News Notes.

Special to The Tribune.

FAIR CITY, Feb. 20.—A representative meeting of the business men was held in the Wright building last evening to organize, with the following officers: W. D. Sutton, president; W. P. Mortenson, secretary; pro tem, Sherman Fargo, P. M. Carpenter and W. D. Sutton were appointed a committee on constitution and by-laws. The next meeting will be held in the near future, when the regular meeting nights will be decided upon.

The regular meeting of the Macabees was held last night. After the regular business has been disposed of refreshments were served.

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WORK IS RUSHING ON DESERT TRACT

New Towns Spring Up in Idaho's Vast Irrigated Territory.

PEOPLE MAKING HOMES ON RECLAIMED LANDS

Remarkable Progress Being Made on Twin Falls North Side Project.

Special to The Tribune.

JEROME, Ida., Feb. 20.—There are things doing on the Twin Falls north side tract. People who purchased lands at the big openings, April and October, 1907, are coming in and taking possession of their farms, thousands of acres being cleared of the sagebrush. Houses are beginning to dot the domain and soon there will be bustle and action on every hand.

The Faris-Kesi company's contract on the first section of the great canal system extending from the million-dollar dam across Snake river at Milner to Wilson's lake is about completed and water will be turned in March 1, giving ample time for settlers on the first tract of 30,000 acres, as soon as they receive it, to put in this season's crops. The Twin Falls North Side company promised the settlers the water this spring and the promise is kept to the letter.

The peopling of this first big tract makes the town of Milner the supply and outfitting point. Milner's new \$40,000 hotel, the Riverside inn, is completed, the furniture has arrived and very soon this beautiful modern hotel will be introduced to the public.

\$200,000 Construction Outfit.

Milner is so located that in a few years it will be a town of commercial importance.

The contract for section No. 2 of the big canal system was awarded to Donald Grant & Co. of Fairbault, Minn. Their contract is sixteen miles long. Grant & Co. are rated among the strong contractors of the West. They have shipped in a construction outfit valued at \$200,000. They have already established several substantial camps and work has commenced in many places along the line of the canal. Their headquarters camp looks like a busy young town.

It is the intention of the North Side company to push all construction work to completion as fast as possible. The settlers are promised water for the 150,000 acres opened for sale October 1, 1907, and there is no doubt but that this promise will be kept.

On the large tract are located the new towns of Jerome and Wendell, several good buildings, electric lights, the power coming from the Shoshone Falls power plant, fifteen miles distant; water for supplying the town at present is pumped from a well 345 feet deep; water pipes have been placed in the main street and the young city has already assumed metropolitan airs. Jerome will make a town and will grow rapidly.

Wendell, the new town on the west end of the tract, will be the distributing point for that section of the territory. Wendell has a host of friends, and although only a few infant as yet, many knowing ones predict that this embryonic city will outdistance all others on the tract. Time, however, will tell the story. All the towns—Milner, Jerome and Wendell—have sufficient country contributory to make solid, substantial towns.

The electric railroad running through the entire tract from Milner to Gooding, passing through the towns of Wendell and Jerome, will add the finishing touches to this great reclamation enterprise, affording rapid and varied connections with the Oregon Short Line trains at Milner and Gooding.

It is a marvelous thing to think that less than a year ago this vast tract was but a brown, uninviting stretch of desert. Today one requires no stretch of imagination to see hundreds of splendid farms, several prosperous modern towns, an electric railroad, electric power for every use when required, and, as it were, in a night the whole face of the earth changed. Irrigation, the Carey act, money, brains and opportunity have added millions of dollars worth of taxable property to the State of Idaho, and already the formation of a great commonwealth has been securely and firmly established.

A great, strong, capable people are coming to dwell in this generous land of opportunity. In a few short years all evidences of primitive conditions will have passed away and the coming civilization will fulfill the prophecies of the most optimistic. Surely, it will be good to dwell in this Idaho land, this favored valley, where nature has smiled so lavishly and filled the storehouses of opportunity with resources so generous.

WILL MAKE INVESTIGATION OF ALIENS AS WARDS

HELENA, Mont., Feb. 20.—Alfred Hampton, inspector in charge of immigration service, with headquarters in Helena, today received instructions from the department at Washington to begin an investigation of all penal, charitable, reformatory and other institutions in his district, including prisons, jails, poorhouses, hospitals and asylums, with the view of ascertaining the number of aliens quartered therein. The investigation will continue for three months, and the communication informs the inspector that it will apply throughout the entire Nation. A similar crusade was taken in 1904.